

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CASE NO.: C16-1069 RSM

**[PROPOSED] STIPULATED
PROTECTIVE ORDER**

In re JUNO THERAPEUTICS, INC.

1 In connection with the production of confidential documents and other confidential
2 information in this action, Plaintiffs Gilbert Hoang Nguyen and Susan Tan and Defendants Juno
3 Therapeutics, Inc. (“Juno”), Hans E. Bishop, Steven D. Harr, and Mark J. Gilbert, through their
4 respective counsel, enter into this Stipulated Protective Order for the Treatment of Designated
5 Information.

6 **1. PURPOSES AND LIMITATIONS**

7 Discovery in this action is likely to involve production of confidential, proprietary, or
8 private information for which special protection may be warranted. Accordingly, the parties
9 hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The
10 purpose of this Stipulated Protective Order is to provide a means for limiting access to, use, and
11 disclosure of confidential material (as defined below) produced in this action while affording
12 public disclosure to the greatest extent possible. The parties acknowledge that this agreement is
13 consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses
14 to discovery, the protection it affords from public disclosure and use extends only to the limited
15 information or items that are entitled to confidential treatment under the applicable legal
16 principles, and it does not presumptively entitle parties to file confidential material (as defined
17 below) under seal.

18 **2. “CONFIDENTIAL” MATERIAL**

19 “Confidential” material shall include the following documents, deposition testimony,
20 information, and other tangible or intangible items produced or otherwise exchanged:

21 (i) non-public intellectual property or proprietary information, including, but
22 not limited to, research, data, technical specifications, designs, processes, production methods,
23 cost or pricing regarding any Juno product, or any communications concerning the foregoing;

24 (ii) non-public communications concerning development, testing, or analyses
25 of pre-clinical and clinical-stage pharmaceutical products;

26 (iii) non-public communications with any governmental regulatory or
27 supervisory agency, body or group;

(iv) non-public clinical study data and analyses;

(v) non-public information pertaining or referring to Juno's regulatory, financial, business development or marketing plans or practices that, if disclosed, could damage Juno's competitive position;

(vi) non-public information obtained from a non-party pursuant to a non-disclosure agreement, or that the producing party is under a legal or contractual obligation to maintain as confidential;

(vii) non-public personal, medical or financial information; or

(viii) non-public terms of commercial agreements, licensing agreements, collaboration agreements, clinical trial agreements, sponsored research agreements, settlement agreements or communications pertaining to such agreements.

3. SCOPE

The protections conferred by this agreement cover not only confidential material (as defined above), but also (1) any information copied or extracted from confidential material; (2) all copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony, conversations, or presentations by parties or their counsel that might reveal confidential material.

However, the protections conferred by this agreement do not cover information that is in the public domain or becomes part of the public domain through trial or otherwise.

4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

4.1 Basic Principles. A receiving party may use confidential material that is disclosed or produced by another party or by a non-party in connection with this case only for prosecuting, defending, or attempting to settle this litigation. Confidential material may be disclosed only to the categories of persons and under the conditions described in this agreement. Confidential material must be stored and maintained by a receiving party at a location and in a secure manner that ensures that access is limited to the persons authorized under this agreement.

1 4.2 Disclosure of “CONFIDENTIAL” Material. Unless otherwise ordered by the
2 Court or permitted in writing by the designating party, a receiving party may disclose
3 confidential material only to:

4 (a) the receiving party’s counsel of record in this action, as well as employees
5 of counsel to whom it is reasonably necessary to disclose the information for this litigation;

6 (b) the officers, directors, and employees (including in-house counsel) of the
7 receiving party to whom disclosure is reasonably necessary for this litigation;

8 (c) experts and consultants to whom disclosure is reasonably necessary for
9 this litigation and who have signed the “Acknowledgment and Agreement to Be Bound”
10 (Exhibit A);

11 (d) the Court, court personnel, and court reporters and their staff;

12 (e) copy or imaging services retained by counsel to assist in the duplication of
13 confidential material, provided that counsel for the party retaining the copy or imaging service
14 instructs the service not to disclose any confidential material to third parties and to immediately
15 return all originals and copies of any confidential material;

16 (f) during their depositions, any witness to whom disclosure is reasonably
17 necessary who is not otherwise permitted to view confidential material pursuant to this
18 agreement and who has signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),
19 unless otherwise agreed by the designating party or ordered by the Court. Pages of transcribed
20 deposition testimony or exhibits to depositions that reveal confidential material must be
21 separately bound by the court reporter and may not be disclosed to anyone except as permitted
22 under this agreement;

23 (g) the author or recipient of a document containing the information or a
24 custodian or other person who otherwise possessed or knew the information; or

25 (h) any mediator who the parties agree to use in the event the parties pursue
26 mediation, and any such mediator’s employees to whom disclosure is reasonably necessary for
27 the mediation.

1 4.3 Filing Confidential Material. Before filing confidential material or discussing or
 2 referencing such material in court filings, the filing party shall confer with the designating party
 3 to determine whether the designating party will remove the confidential designation, whether the
 4 document can be redacted, or whether a motion to seal or stipulation and proposed order is
 5 warranted. Local Civil Rule 5(g) sets forth the procedures that must be followed and the
 6 standards that will be applied when a party seeks permission from the Court to file material
 7 under seal.

8 **5. DESIGNATING PROTECTED MATERIAL**

9 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party
 10 or non-party that designates information or items for protection under this agreement must take
 11 care to limit any such designation to specific material that qualifies under the appropriate
 12 standards. The designating party must designate for protection only those parts of material,
 13 documents, items, or oral or written communications that qualify, so that other portions of the
 14 material, documents, items, or communications for which protection is not warranted are not
 15 swept unjustifiably within the ambit of this agreement.

16 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
 17 shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to
 18 unnecessarily encumber or delay the case development process or to impose unnecessary
 19 expenses and burdens on other parties) expose the designating party to sanctions.

20 If it comes to a designating party's attention that information or items that it designated
 21 for protection do not qualify for protection, the designating party must promptly notify all other
 22 parties that it is withdrawing the mistaken designation.

23 5.2 Manner and Timing of Designations. Except as otherwise provided in this
 24 agreement (*see, e.g.*, section 5.2(a)), or as otherwise stipulated or ordered, disclosure or
 25 discovery material that qualifies for protection under this agreement must be clearly so
 26 designated before or when the material is disclosed or produced.

(a) Information in documentary form: (e.g., paper or electronic documents and deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings) the designating party must affix the word “CONFIDENTIAL” to each page that contains confidential material. If only a portion or portions of the material on a page qualifies for protection, the producing party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

(b) Testimony given in deposition or in other pretrial proceedings: the parties and any participating non-parties must identify on the record, during the deposition or other pretrial proceeding, all protected testimony, without prejudice to their right to so designate other testimony after reviewing the transcript. Any party or non-party may, within fifteen days after receiving the transcript of the deposition or other pretrial proceeding, designate portions of the transcript, or exhibits thereto, as confidential. If a party or non-party desires to protect confidential material at trial, the issue should be addressed during the pre-trial conference.

(c) Other tangible items: the producing party must affix in a prominent place on the exterior of the container or containers in which the information or item is stored the word “CONFIDENTIAL.” If only a portion or portions of the information or item warrant protection, the producing party, to the extent practicable, shall identify the protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the designating party’s right to secure protection under this agreement for such material. Upon timely correction of a designation, the receiving party must make reasonable efforts to ensure that the material is treated in accordance with the provisions of this agreement.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any party or non-party may challenge a designation of confidentiality at any time. Unless a prompt challenge to a designating party’s confidentiality designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or delay of the litigation, a party does not waive its right to

1 challenge a confidentiality designation by electing not to mount a challenge promptly after the
2 original designation is disclosed.

3 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute
4 regarding confidential designations without court involvement. Any motion regarding
5 confidential designations or for a protective order must include a certification, in the motion or in
6 a declaration or affidavit, that the movant has engaged in a good faith meet and confer
7 conference with other affected parties in an effort to resolve the dispute without court action. The
8 certification must list the date, manner, and participants to the conference. A good faith effort to
9 confer requires a face-to-face meeting or a telephone conference.

10 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court
11 intervention, the designating party may file and serve a motion to retain confidentiality under
12 Local Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of
13 persuasion in any such motion shall be on the designating party. Frivolous challenges, and those
14 made for an improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on
15 other parties) may expose the challenging party to sanctions. All parties shall continue to
16 maintain the material in question as confidential until the Court rules on the challenge.

17 **7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN** 18 **OTHER LITIGATION**

19 If a party is served with a subpoena or a court order issued in other litigation that compels
20 disclosure of any information or items designated in this action as “CONFIDENTIAL,” that
21 party must:

22 (a) promptly notify the designating party in writing and include a copy of the
23 subpoena or court order;

24 (b) promptly notify in writing the party who caused the subpoena or order to
25 issue in the other litigation that some or all of the material covered by the subpoena or order is
26 subject to this agreement. Such notification shall include a copy of this agreement; and
27

(c) cooperate with respect to all reasonable procedures sought to be pursued by the designating party whose confidential material may be affected.

8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential material to any person or in any circumstance not authorized under this agreement, the receiving party must immediately (a) notify in writing the designating party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this agreement, and (d) request that such person or persons execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a producing party gives notice to receiving parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision does not, however, alter the provisions of the parties’ Stipulation Regarding Discovery of Electronically Stored Information. The parties agree to the entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.

10. NON TERMINATION AND RETURN OF DOCUMENTS

Within 60 days after the termination of this action, including all appeals, each receiving party must either return or destroy all confidential material to the producing party, including all copies, extracts, and summaries thereof. Notwithstanding this provision, counsel are entitled to retain one archival copy of all documents filed with the Court; trial, deposition, and hearing transcripts; correspondence; deposition and trial exhibits; expert reports; attorney work product; and consultant and expert work product, even if such materials contain confidential material.

The confidentiality obligations imposed by this agreement shall remain in effect until a designating party agrees otherwise in writing or a court orders otherwise.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: November 30, 2017

s/ Omar Jafri

Attorneys for Plaintiff

DATED: November 30, 2017

s/ Lauren Rosenberg

Attorneys for Defendant

PURSUANT TO STIPULATION, IT IS SO ORDERED.

IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any documents in this proceeding shall not, for the purposes of this proceeding or any other proceeding in any other court, constitute a waiver by the producing party of any privilege applicable to those documents, including the attorney-client privilege, attorney work-product protection, or any other privilege or protection recognized by law.

DATED: _____

The Hon. Ricardo S. Martinez
United States District Court Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of
perjury that I have read in its entirety and understand the Stipulated Protective Order that was
issued by the United States District Court for the Western District of Washington on [date] in the
case of *In re Juno Therapeutics, Inc.*, No. C16-1069 RSM. I agree to comply with and to be
bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that
failure to so comply could expose me to sanctions and punishment in the nature of contempt. I
solemnly promise that I will not disclose in any manner any information or item that is subject to
this Stipulated Protective Order to any person or entity except in strict compliance with the
provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the
Western District of Washington for the purpose of enforcing the terms of this Stipulated
Protective Order, even if such enforcement proceedings occur after termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

1
2 Dated: November 30, 2017

s/ Gregory L. Watts
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CERTIFICATE OF SERVICE

I hereby certify that on November 30, 2017, I filed the foregoing with the Clerk of the Court using the CM/ECF system, and served all parties via ECF.

Dated: November 30, 2017

s/ Lauren Rosenberg

Lauren Rosenberg (pro hac vice)